

Effective January 1, 2002, a retailer is no longer required to be located in the municipality or county that created the enterprise zone into which the building materials are to be incorporated in order to take the deduction. See 86 Ill. Adm. Code 130.1951. (This is a GIL.)

June 17, 2003

Dear Xxxxx:

This letter is in response to your letter dated February 6, 2003. We apologize for the delay in responding to your inquiry. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

I have been asked if our customer can purchase tire repair equipment sold by our company, ABC without paying tax by using what appears to be a State of Illinois Enterprise Zone Building Permit.

We have included \$318.75 tax on invoice # for an automatic tire balancer and a tire changer. I have received a fax (not of the greatest quality) shown as 'Sales Tax Certificate' which indicates the customer has a building permit issued DATE and signed by a representative of XYZ County.

Is the customer's claim of tax exemption valid such that we could credit the \$318.75 of tax without repercussions during a sales and use tax audit?

Thank you for your assistance on this issue.

#### **DEPARTMENT'S RESPONSE:**

The enterprise zone building materials exemption from sales tax applies to both state and local sales taxes on qualifying building materials. Effective January 1, 2002, a retailer is no longer required to be located in the municipality or county that created the enterprise zone into which the building materials are to be incorporated in order to take the deduction. See subsection (c) of the enclosed copy of 86 Ill. Adm. Code 130.1951 regarding the enterprise zone exemption.

Some examples of the kind of building materials that could qualify include common building materials such as lumber, bricks, and cement, plumbing systems and components thereof, heating systems and components thereof, electrical systems and components thereof, central air conditioning systems, ventilation systems and components thereof, built-in cabinets, and built-in appliances. See subsection (d) of Section 130. 1951.

Items that are not physically incorporated into the real estate cannot qualify for the exemption. Examples of this include tools, machinery, equipment, fuel, forms and other items that may be used by a construction contractor at an enterprise zone building site, but are not physically incorporated into the real estate, and free-standing appliances such as stoves and refrigerators if they are connected to and operate from a building's electrical or plumbing system but do not become a component of those systems. See subsection (e) of Section 1951.

We cannot tell from the information provided with your letter whether this equipment is to be permanently affixed to realty in order to be considered a building material under the enterprise zone exemption. Generally, unless the enterprise zone certification that is given by the customer is clearly invalid (for example the purchase is for items that clearly cannot be considered building materials), the Department will pursue liability for an improperly provided certificate from the customer rather than the retailer.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton  
Associate Counsel

TDC:msk  
Enc.